

CHAPTER: V TECHNICAL ELIGIBILITY	SECTION: 4 CITIZENSHIP/IMMIGRANTS	COMAR: 07.03.03.07 07.03.03.15
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REQUIREMENTS

A. Each member of the assistance unit must be one of the following:

1. Citizen of the United States or its territories who is:
 - Born in the U.S., or
 - Born in Puerto Rico, Virgin Islands, Guam, or the Northern Marianna Islands, or
 - Born to a U.S. citizen living outside the U.S., or
 - Naturalized citizen
2. U.S. noncitizen national born in American Samoa or Swain's Island
3. American Indian born in Canada meeting provisions of §289 of INA or §4(e) of the Indian Self-determination and Education Assistance Act.
4. Hmong or Highland Laotian tribal member if alive at any time between August 5, 1964 and May 7, 1975 (spouse, surviving unmarried spouse, and unmarried dependent children also qualify)
5. Legal qualified immigrants under **certain conditions**. A qualified immigrant is:
 - An immigrant lawfully admitted for permanent residence under the Immigration and Nationality Act (INA)
 - An immigrant granted asylum under §208 of the INA
 - A refugee admitted under §207 of the INA
 - An immigrant who is paroled for at least a year under §212(d)(5) of the INA.
 - An immigrant whose deportation was withheld under §243(h) or whose removal was withheld after April 1, 1997 under §241(b)(3).
 - An immigrant who was granted conditional entry under §203(a)(7) prior to April 1, 1980
 - Certain battered immigrant spouses and children
 - Cuban and Haitian entrants paroled under §212(d)(5) of INA .

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- B. Lawfully admitted immigrants who are in the U.S. temporarily are not eligible, including:
1. Visitors and tourists
 2. Diplomats and their families
 3. Individuals with student visas
- C. Immigrants who are in the U.S. illegally are not eligible
- D. Immigrants who do not have documentation of their status, or the documentation has expired, are not eligible
1. Do not delay approval of the eligible family members pending receipt of immigration status documentation
 2. When documentation is received that verifies the immigrant is qualified, add the immigrant to the assistance unit effective the month following the month the verification is received

QUALIFIED IMMIGRANT ELIGIBILITY CONDITIONS – FEDERAL TCA

- A. The following immigrants admitted for permanent residence are eligible for an unlimited period:
1. Veterans who were honorably discharged for reasons other than immigrant status
 - Spouses and unmarried dependent children also qualify
 2. Active military duty personnel, except those on active duty only for training
 - Spouses and unmarried dependent children also qualify
 3. Immigrants who have worked 40 qualifying quarters (see qualifying quarter information under next heading)
- B. The following immigrants are eligible for 5 years after obtaining a status listed below:
1. Refugees admitted under § 207 of the Immigration and Nationality Act
 2. Asylees admitted under § 208 of the Immigration and Nationality Act
 3. Immigrants whose deportation has been withheld under §§ 243 (h) or 241(b)(3) of the Immigration and Nationality Act

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4. Cuban and Haitian entrants paroled under §212(d)(5) of the Immigration and Naturalization Act
5. Amerasians admitted for permanent residence

Note: Eligibility exists for 5 years based on the initial date of the above status even if the immigrant later becomes lawfully admitted for permanent residence

- C. After 5 years, the immigrants in B, above, must be:
1. U.S. citizens,
 2. Veterans, active military, or
 3. Have met the 40 work quarters qualification
- D. All other legal immigrants are ineligible for 5 years after entering the U.S.

Note: Qualified immigrants who are ineligible for federal TCA benefits solely due to their immigrant status are eligible for state-funded TCA if they meet all other technical and financial TCA eligibility requirements.

Medical assistance (state-funded) is only available to children and pregnant women.

State-funded Food Stamps are only for children under 18 or in a TCA assistance unit who are qualified immigrants ineligible for federally funded benefits

IMMIGRANTS BATTERED OR SUBJECTED TO EXTREME CRUELTY

- A. An immigrant (or his or her child, or in the case of a child immigrant, his or her parent) who does not otherwise meet the criteria as a qualified immigrant and who has been subjected to battery or extreme cruelty is considered a qualified immigrant if **all** the following conditions are met:
1. Has the appropriate INS status, limited to an application for:
 - Lawful permanent residence(LPR) as the spouse, child, or unmarried son or daughter of a citizen or an LPR

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- LPR as the widow or widower of a U.S. citizen and was married at least 2 years at time of death
 - LPR as the spouse of a citizen or LPR, has resided with the spouse in the U.S. and has (or child has) been subject to spouse's battery or extreme cruelty
 - LPR as the child of a citizen or LPR, resided with that parent in the U.S. and was subjected to battery or cruelty by that parent, or
 - Stay of deportation due to battery of self by spouse or child by parent (only status that helps those never married or divorced)
2. Has been subjected to battery or extreme cruelty in the U.S. by spouse, parent, or a member of that person's family residing in the same household
 3. Has need of TCA because of the battery or cruelty
 4. Has left the household of the batterer
- B. The battered immigrant is not eligible for federal TCA benefits unless he or she has an immigrant status, which is otherwise eligible. However, since the person is qualified, state-funded TCA may be granted.
- C. Verification is required that the immigrant meets each of the criteria. If the immigrant does not have INS documents and police reports, INS or the Executive Office for Immigration Review (EOIR) can verify that a petition to qualify under this category has been approved. Use any credible proof that the immigrant has left the home of the batterer. (See FIA Information Memo 99-51 for details)
- D. Immigrants in this category should be referred to the local department Family Violence Counselor, including those who need help filing to qualify under this category

FORTY QUALIFYING QUARTERS OF WORK

- A. Qualifying quarters of work may be earned by the :
1. Immigrant applying for benefits
 2. Parent of the immigrant before the immigrant turns 18
 3. Spouse of the immigrant during the marriage as long as the couple is still married or the spouse is deceased

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- B. Add together the qualifying quarters of the immigrant, parent, and spouse to determine if there are 40 qualifying quarters.
- C. Determine a quarter of coverage as follows:
 - 1. From 1978 to the present:
 - Total earnings for the calendar year are divided by the dollar amount needed to qualify as a quarter in the designated year, up to a maximum of 4
 - 2. Prior to 1978:
 - Any quarter with \$50 in wages qualifies up to a maximum of 4 in a calendar year
 - Net self-employment of \$400 qualifies as 4 quarters in a calendar year
- D. Count covered and non-covered wages
- E. Count wages earned while the immigrant was illegally in the U.S.
- F. After December 31, 1996, do **not** count wages received during a quarter in which the immigrant received federal means-tested benefits

VERIFICATION

- A. Only require verification of U.S. citizenship or U.S. noncitizen national status if questionable
- B. Require verification of immigrant status which needs to include status, date of entry, and date current status was designated
 - 1. Obtain a copy of the immigrant status documents listed below that are acceptable for the specified status
 - 2. Always verify using the Systematic Alien Verification for Entitlement Program (SAVE) to ensure that documents are valid
 - 3. If the immigrant does not have a document or it has expired, refer the person to the District Immigration and Naturalization Service Office (INS)
 - 4. If the immigrant has applied for replacement documents, send **Form INSG-845 and Supplement** and a copy of the applicant's receipt for replacement documents to INS

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5. Do not contact INS directly to obtain documentation unless requested to do so by the immigrant who is hospitalized, disabled, or has other good cause for not having the documentation and obtaining it would cause undue hardship
6. To access the Alien Status Verification Index (ASVI) of SAVE:
 - Dial 1-800-365-7620 and follow voice prompts
 - Enter the access or authorization code and jurisdiction code
 - i. Access = *42 *91 *61 *31
 - ii.

Montgomery County	0001#
Prince George's County	0002#
Baltimore City	0003#
Balance of State	0004#
FIA Central	0005#

Example: Baltimore City = *42 *91 *61 *31 0003#
 - Enter the Alien Number after voice prompt to do so
- C. Require verification if the individual claims unlimited eligibility due to veteran status, active military duty, or quarters of work coverage, using
 1. Quarters of Coverage History System (QCHS) in the State Verification Exchange System as the primary source for verifying quarters of work
 2. **Consent Form SSA-3288** if requesting work history for a person other than the applicant – retain in the case record
 3. **Form SSA-513** instead of QCHS if unable to obtain consent from an individual other than the applicant
 4. Veterans Administration or Defense Department as the primary source to verify military or veteran status
- D. The immigrant is ineligible until a qualified status is verified
- E. The following documents verify immigrant status:
 1. Asylee
 - **INS Form I-94** annotated with stamp showing grant of asylum under section 208 of the INA;

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- **INS Form I-688 B** (Employment Authorization Card) annotated "274a.12(a)(5)";
- **INS Form I-766** (Employment Authorization Document) annotated "A5";
- Grant letter from the Asylum Office of INS; or
- Order of an immigration judge, granting asylum.
- The 5-year limit:
 - The INS form I-94, the INS grant letter, and court order will each include the date the asylee status was obtained. If the applicant cannot provide any of these documents, file an INS form G-845 and Supplement along with a copy of pertinent documents.

2. Refugee

- **INS Form I-94** annotated with a stamp showing admission under section 207 of the INA.
- **INS Form I-688 B** (Employment Authorization Card) annotated "274a.12(a)(3)".
- **INS Form I-766** (Employment Authorization Document) annotated "A3".
- **INS-Form 571** (Refugee Travel Document).
- The 5-year limit:
 - The date of the inspection on the refugee stamp on the INS form I-94 indicates the date of admission as a refugee. If the date is missing or applicant cannot provide an I-94, file an INS Form G-845 and Supplement along with a copy of pertinent documents.

3. Immigrant Whose Deportation or Removal Was Withheld

- **INS Form I-688B** (Employment Authorization Card) annotated "274a.12(a)(10).
- **INS Form I-766** (Employment Authorization Document) annotated "A10".

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- Order from an immigration judge showing deportation withheld under section 241(b)(3) of the INA.
- The 5-year limit:
 - The court order will include the date the deportation was withheld. If the applicant does not present a court order, file an INS form G-845 and Supplement along with a copy of pertinent documents.

4. Cuban/Haitian Entrant

- **INS Form I-551** (Alien Registration Card) with a code CU6, CU7, or CH6;
- Unexpired temporary **I-551** stamp in a foreign passport or on **INS Form I-94** with the code CU6 or CU7; or
- **INS Form I-94** with a stamp showing paroled as "Cuban/Haitian Entrant" under Section 212(d)(5) of the INA.
- The 5-year limit:
 - The **I-551** or the date of inspection on the stamp on **INS form I-94** will indicate the date status was granted. If the date is missing on **Form I-94**, file an INS form **G-845 and Supplement** along with a copy of pertinent documents.

5. Amerasian Immigrants

- **INS Form I-551** with the code AM6, AM7, or AM8;
- Unexpired temporary **I-551** stamp in foreign passport; or
- **INS Form I-94** with unexpired stamp with code AM1, AM2, or AM3.
- The 5-year limit:
 - The date on the **INS Form I-551** or the date of inspection on the stamp on the **INS Form I-94** will indicate the date of admission. If the date is missing on the **I-94**, file a **G-845 and Supplement**, along with a copy of the pertinent documents.

6. Immigrant Paroled into the U.S. for a period of at least one year

- **INS Form I-94** with stamp showing admission for at least one year under section 212(d)(5) of the INA. (The applicant cannot aggregate

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periods of admission for less than one year to meet the one-year requirement.)

- 5 Year Status
 - If they entered the U.S. on or after August 22, 1996, immigrants are barred from eligibility for “federal means-tested programs” for 5 years from the date they entered the U.S. with the qualified alien status unless they are among the qualified aliens who have unlimited eligibility. Consider eligibility for State benefits.

7. Immigrant Granted Conditional Entry

- **INS Form I-94** with stamp showing admission under section 203 (a)(7) of the INA,
- **INS Form I-688 B** (Employment Authorization Card) annotated “274a.12(a)(3),”
- **INS Form I-766** (Employment Authorization Document) annotated “A3.”
- 5 Year Status
 - If they entered the U.S. on or after August 22, 1996, immigrants are barred from eligibility for “federal means-tested programs” for 5 years from the date they entered the U.S. with the qualified alien status unless they are among the qualified aliens who have unlimited eligibility. Consider eligibility for State benefits.

8. Lawfully Admitted for Permanent Residence

- **INS Form I-551** (Alien Registration Receipt Card, commonly known as a “green card”) or
- Unexpired Temporary **I-551** stamp in a foreign passport or on INS Form I-94
- 5 Year Status
 - a. If they entered the U.S. on or after August 22, 1996, immigrants are barred from eligibility for “federal means-tested programs” for 5 years from the date they entered the U.S. with the qualified alien status unless they are among the qualified aliens who have unlimited eligibility. Consider eligibility for State benefits.

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- b. If they entered the U.S. or had an adjustment in status after December 19, 1997, the immigrant should have a sponsor who has signed an affidavit of support and will support until the immigrant becomes a U.S. citizen or has 40 qualifying work quarters. (See Sponsored Immigrants)

SPONSORED IMMIGRANTS – 07.03.03.15

- A. Immigrants who were sponsored prior to December 19, 1997 are:
 1. Ineligible for 3 years from date of entry if sponsored by an agency or organization
 2. Required to count the income and resources of the individual sponsor (and spouse if living together) for 3 years from date of entry
 3. The 3- year period can be shortened when the sponsoring agency no longer exists or cannot meet the immigrant's needs, or the individual sponsor cannot be located or is unable to provide financial assistance
- B. An affidavit of support is required for all applications for immigrant visas or adjustment of status on or after December 19, 1997.
 1. The support form is **I-864**
 2. The sponsor agrees to maintain the immigrant at 125% of the federal poverty level or higher
 3. The sponsor agrees to reimburse any agencies providing a means-tested benefit to the immigrant
 4. Termination of the support obligation ceases when the immigrant:
 - Becomes a U.S.citizen, or
 - Has worked or been credited with 40 quarters of work, or
 - Has left the US and no longer has LPR status, or
 - Dies
- C. Termination also ceases if the sponsor dies
- D. Exceptions to sponsoring requirements:
 1. Refugees and asylees are exempt even after attaining LPR status.

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2. Battered spouses and children are granted a one-year exception if the batterer is the spousal or parental sponsor in that sponsor's home.
 - The exception may continue if battery or extreme cruelty is recognized by INS, a judge, or an Administrative Law Judge
 3. Immigrants who are indigent because they are abandoned by their sponsors or their sponsors' contributions are so inadequate that the individual would go without food and shelter
- E. Verify the sponsor's income or status only if the immigrant claims that the sponsor does not or cannot support them

EXAMPLES

Example 1. Mrs. Norway and her three minor children apply for TCA because Mr. Norway died in 1999. The Norways and 2 of the children immigrated to the U.S. in 1994 as LPRs. Mr. Norway's sister sponsored them. Eric, the oldest child, came in 1998. Both Mr. and Mrs. Norway worked for 5 years, each earning at least \$10,000 per year.

- Mrs. Norway and two of the children are eligible for federal TCA because they were here prior to August 22, 1996
- Eric is eligible for federal TCA because his parents each have 20 quarters of qualified work which are added together giving 40 quarters of work
- Mr. Norway's sister is no longer responsible for supporting the family because the 3-year period for sponsorship that applied at the time has expired

Example 2. Ms. Kosovo and her son Joe entered the U.S. in January 1997 as refugees. In November 1999, she attained the status of lawfully admitted for permanent residence. Ms. Kosovo lost her job in February 2000 and applies for TCA.

- Ms. Kosovo and her son are eligible for TCA as refugees since the status is applicable for 5 years from date of entry, even if LPR status is later attained.

Example 3. Mr. and Mrs. Cuba entered the U.S. with their 4 children in September 1996 and are granted refugee status. The family received TCA during 1996 and 1997. Mr. Cuba begins working in January 1998 and continued working until January 2002 when he injured his back. The family again applies for TCA. They have not become citizens.

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- The family is not eligible for federal TCA because the 5-year eligibility based on their refugee status expired in September 2001. Since Mrs. Cuba did not work and Mr. Cuba only worked for 4 years, the family is credited with 16 quarters of work.
- The family is eligible for state-funded TCA and the children are eligible for state-funded MA and food stamps.

Example 4. Mr. France, who has a 14-year old daughter, Parris, marries Ms. America while both are living in Italy. The family comes to the U.S. in July 1998, where their daughter, Mary, was born. Ms. America's uncle sponsors Mr. France and Parris. In February 1999, the uncle dies and the family applies for TCA.

- Although some members are eligible for federal TCA and some for state TCA, there is **one** TCA assistance unit
- Ms. America and Mary are U.S. citizens and eligible for federal TCA
- Mr. France and Parris are LPRs and barred from receiving federal benefits for 5 years from date of entry, but eligible for state-funded TCA.
- Ms. America and Mary are eligible for federal MA and food stamps
- Parris is eligible for state-funded food stamps and state-funded MA
- Mr. France is not eligible for the state-funded MA and food stamps because these benefits are only available to children.

Note: Make Ms. America head of household since she is eligible for all benefits

- Eligibility for state-funded benefits is coded on the ALAS screen:
 - o Use the School Name field for TCA
 - o Use the State Paid Program field for Food Stamps
- State paid Medical Assistance is X01 coverage group.

Example 5. Mrs. Green came to the United States as a student in 1997 and married Mr. Green in 1999. They have two children, but Mrs. Green never tried to change her status and is here illegally. After years of abuse and many interventions by the police, Mrs. Green left her husband, taking the children with her. She applies for permanent residence status and for TCA in March 2003 because her husband cut off all support.

- The two children are U.S. citizens and eligible for federally funded TCA

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- Mrs. Green satisfies all the conditions to be a qualified immigrant under the battered spouse criteria, but is not eligible for federal TCA because:
 - She has not been in the U.S. as an LPR for 5 years and does not have work quarters.
 - Neither she nor Mr. Green was in the military.
 - She is not a refugee, asylee, or parolee, etc
- Mrs. Green is eligible for state-funded TCA, but not MA or food stamps
- The children also receive federally funded Food Stamps and Medical Assistance

ADDITIONAL INFORMATION

- Family Investment Program Components - State-funded TCA Program